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FEDERAL MARITIME COMMISSION

WASHINGTON, D.C.

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DOCKET NO. 15-11

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IGOR OVCHINNIKOV, ET AL

v.

MICHAEL HITRINOV, ET AL

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FILED

MAY 4 - 2016

Federal Maritime Commission  
Office of the Secretary

**ANSWER OF RESPONDENTS EMPIRE UNITED LINE AND MICHAEL HITRINOV**

**I. Complainant**

- 1 Lack sufficient information to admit or deny
2. Lack sufficient information to admit or deny
- 3 Lack sufficient information to admit or deny

**II. Respondents**

- 4 Admit, except deny that Mr Hitrinov has a principal place of business -- it is EUL that maintains the business at that location.
- 5 The Shipping Act as codified does not define the term "person."
- 6 Admit except as to undefined term "shipping company "
- 7 Admit except that "closely held" is not a legal entity description and EUL no longer has a place of business at 52 Butler Street in Elizabeth, NJ
- 8 Admit
- 9 Deny except as to CarCont's address.

10 Deny

11 Deny

12. Admit.

13 Admit as to Mr Hitrinov being President of EUL, otherwise deny

14 Admit

15 Deny that Mr Hitrinov exercises day-to-day control.

16 Admit

17 Deny

18 Deny

19 Deny

20 Deny

21 Deny (these are Ocean Freight Forwarder activities)

22. Deny

### **III. Jurisdiction**

23 Deny Also, the FMC has no jurisdiction under COGSA.

24 Admit that Complainants are seeking reparations, but deny that EUL or Hitrinov violated any of the referenced sections or that any such violations caused injury to Complainants.

25 Admit that EUL is a licensed NVOCC, deny that it falls under the jurisdiction of the FMC for purposes of this proceeding.

**IV. Statement of Facts and Matters Complained of**

- 26 Deny that EUL or Hitrinov are engaged in the business of exporting. As to sentence two, admit that EUL arranged for transportation by ocean going vessel of vehicles as to which Complainants now assert claims, but denies that they were Complainants' vehicles.
- 27 Admit that EUL is in the business of providing OTI services, that it is an NVOCC and that it arranges as an NVOCC for ocean transportation of vehicles, but otherwise denies.
- 28 Deny
- 29 Admit that EUL, as an NVOCC, contracts with customers, and that any NVOCC transportation by definition includes an ocean (or Great Lakes) leg. Otherwise deny
- 30 Lacks information sufficient to admit or deny what NVOCCs other than EUL may do. It is EUL's understanding that NVOCCs may issue house bills of lading, and that NVOCCs by definition do not operate the ocean vessels on which the cargo moves.
- 31 Admit that NVOCCs may buy space from ocean common carriers and that they may receive a bill of lading from the ocean common carrier, which may be neither the owner nor the charterer of the vessel. Otherwise deny
32. Deny Under the FMC's regulations, NVOCCs may also enter into NSA and NRA contracts with shippers, neither of which involve tariff rates.
- 33 Admit that there EUL and MSC are parties to a service contract, and that MSC is not currently a party to this proceeding.
- 34 Admit that EUL was able to obtain container space on MSC vessels pursuant to the service contract and that the automobiles regarding which Complainants raise claims may have been in such containers, but deny that EUL arranges space for vehicles or that they were Complainants' automobiles.

- 35 Lack sufficient information to admit or deny
- 36 Admit that EUL did provide transportation services to Kotka, Finland for vehicles delivered to EUL by members of the Kapustin Global Auto Group where CarCont was the consignee on the MSC bill of lading, but otherwise lacks sufficient information to admit or deny Deny here and throughout that there was any such entity as G-Auto/Effect.
- 37 Lack sufficient information to admit or deny
- 38 Lack sufficient information to admit or deny
- 39 Lack sufficient information to admit or deny
- 40 Lack sufficient information to admit or deny
- 41 Admit, except deny that Mr Ovchinnikov was identified on the Title, and note that the titles were provided for reasons in addition to Customs clearance. Deny here and throughout that there was any such entity as G-Auto/Effect
42. Admit that a container containing the car was loaded on board, but deny that the car was loaded on board and that Mr Hitrinov had any ownership interest in the CarCont facility
- 43 Lack sufficient information to admit or deny
- 44 Lack sufficient information to admit or deny Deny here and throughout that there was any such entity as G-Auto/Effect.
- 45 Denied insofar as the statement purported to show payment is not an EUL document, but a fabrication.
- 46 Deny
- 47 Lack sufficient information to admit or deny Deny here and throughout that there was any such entity as G-Auto/Effect.

- 48 Lack sufficient information to admit or deny
- 49 Deny Deny here and throughout that there was any such entity as G-Auto/Effect.
- 50 Lack sufficient information to admit or deny
- 51 Lack sufficient information to admit or deny
52. Lack sufficient information to admit or deny
- 53 Lack sufficient information to admit or deny
- 54 Admit, except deny that Ms. Rzaeva was identified on the Title, and note that the titles were provided for reasons in addition to Customs clearance. Deny here and throughout that there was any such entity as G-Auto/Effect, or Effect/G-Auto
- 55 Admit that a container containing the car was loaded on board, but deny that the car was loaded on board and that Mr Hitrinov had any ownership interest in the CarCont facility
- 56 Lack sufficient information to admit or deny
- 57 Lack sufficient information to admit or deny
- 58 Lack sufficient information to admit or deny Deny here and throughout that there was any such entity as G-Auto/Effect.
- 59 Deny insofar as the statement purported to show payment is not an EUL document, but a fabrication.
- 60 Deny
- 61 Lack sufficient information to admit or deny Deny here and throughout that there was any such entity as G-Auto/Effect.
- 62 Lack sufficient information to admit or deny
- 63 Deny

- 64 Deny Deny here and throughout that there was any such entity as G-Auto/Effect or Effect/G-Auto
- 65 Lack sufficient information to admit or deny
- 66 Lack sufficient information to admit or deny
- 67 Lack sufficient information to admit or deny
- 68 Admit, except deny that Mr Nekipelov was identified on the Title, and note that the titles were provided for reasons in addition to Customs clearance. Deny here and throughout that there was any such entity as G-Auto/Effect or Effect/G-Auto
- 69 Admit that a container containing the car was loaded on board, but deny that the car was loaded on board and that Mr Hitrinov had any ownership interest in the CarCont facility
- 70 Lack sufficient information to admit or deny
- 71 Deny insofar as the statement purported to show payment is not an EUL document, but a fabrication.
72. Deny
- 73 Lack sufficient information to admit or deny Deny here and throughout that there was any such entity as G-Auto/Effect or Effect/G-Auto
- 74 Deny Deny here and throughout that there was any such entity as G-Auto/Effect or Effect/G-Auto
- 75 Deny that EUL handled any shipments on behalf of Complainants.
- 76 Deny
- 77 Deny
- 78 Deny
- 79 Deny

80 Deny

**V. Violations of Shipping Act**

A. Deny

B Deny

C Deny

D Deny

E. Deny Deny here and throughout that there was any such entity as G-Auto/Effect or Effect/G-Auto

**VI. Injury to Complainants**

A. Deny that Respondents violated the Shipping Act or that Complainants were injured by any such violations.

**AFFIRMATIVE DEFENSES**

- 1 The FMC lacks subject matter jurisdiction over the Complaint.
- 2 The FMC lacks personal jurisdiction over Mr Hitrinov as he is not a regulated entity
- 3 The FMC lacks personal jurisdiction over Respondents due to insufficient and improper service of process.
- 4 Complainants have failed to state a claim upon which relief may be granted.
- 5 Complainants' claims for reparations are barred by the applicable statute of limitations.

- 6 Complainants' claims for reparations are barred because they were not proximately caused by any alleged violations of the Shipping Act.
- 7 Complainants' calculations of damage are incorrect and unsupportable.

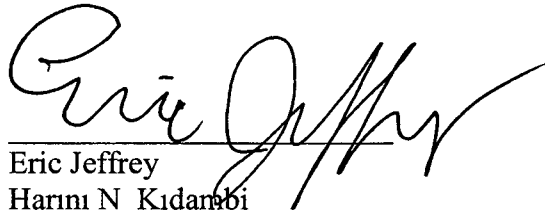
**RESPONDENTS' REQUEST FOR RELIEF**

- 1 Complainants take nothing by way of this action,
2. The Complaint be dismissed, with prejudice;
- 3 Respondents be awarded attorney's fees and such other relief as may be just and proper

**STATEMENT ON HEARING**

Respondents believe at this time that no hearing is necessary

Respectfully submitted,



Eric Jeffrey  
Harini N Kidambi  
**Nixon Peabody LLP**  
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CERTIFICATE OF SERVICE

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I hereby certify that I have this day served the foregoing Answer and Response to Order to Show Cause via electronic and first-class mail to the following:

STATE OF THE DISTRICT OF COLUMBIA  
FEL TOL MAR 11 E 00

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Dated at Washington, DC, this 4<sup>th</sup> day of May, 2016

  
Eric Jeffrey  
Counsel for Respondents